

Notice of Alleged Safety or Health Hazards

U.S. Department of Labor
Occupational Safety and Health Administration

MOD Date	1. Complaint Number
2. Employer Name	
3. Site Location (Street, City, State, ZIP)	
4. Mailing Address (If different) (Street, City, State, ZIP)	
5. Management Official	6. Telephone Number
7. Type of Business	

8. Hazard Description. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard:

This constitutes a "formal complaint" as that term is defined by OSHA.¹ By law, all complaints meeting the requirements for a formal complaint must be investigated.² This formal complaint is brought under and pursuant to the "general duty clause" of the OSH Act³ which requires that "each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

Complainant alleges he or she is being exposed, in violation to the general duty clause of the OSH Act, to levels of chemicals known as secondhand tobacco smoke or Environmental Tobacco Smoke (ETS) found by the Environmental Protection Agency (EPA), National Institute for Occupational Safety and Health (NIOSH), U.S. Public Health Service (USPHS), National Research Council of the National Academy of Sciences, National Cancer Institute, International Agency for Cancer Research (IACR), World Health Organization (WHO), American Medical Association, American Cancer Society, and the American Lung Association to cause lung cancer (and deaths from lung cancer), as well as numerous other health hazards, even in otherwise healthy adults — and thus is likely to cause death or serious physical harm to employees, including complainant.

This complaint further alleges that this forced exposure to a substance the EPA has classified as an "Group A Carcinogen" (in the same category as benzene, asbestos, and arsenic),⁴ and NIOSH has classified as a "potential occupational carcinogen,"⁵ substantially exceeds the official exposure recommendations of the U.S. Public Health Service, and the official federal guidelines for exposure to ETS promulgated by the EPA⁶ and NIOSH.⁷ Both require that, if any smoking is permitted in an indoor work area, it be restricted to separate rooms which are individually ventilated and are negatively pressurized.

Complainant also alleges that exposure to ETS is a "recognized hazard," as that term is defined by OSHA,⁸ because it is a condition which by common knowledge is hazardous (see above findings), and is detectable by means of the senses — and that complainant has clearly detected the exposure by smelling the distinct odor of ETS and/or by seeing the particles of ETS in the air.

NOTES: [1.] To meet the formality requirements outlined in Section 8(f) of the Act and in 29 CFR 1903.11, a complaint shall: (1) Be reduced to writing either on a Notice of Alleged Safety or Health Hazards (OSHA-7 Form) or in a letter; (2) Allege that an imminent danger or a violation threatening physical harm (i.e., a hazard covered by a standard or by the general duty clause) exists in the workplace; (3) Set forth with reasonable particularity the grounds upon which it is based. This does not mean that the complaint must specify a particular standard; it need only specify a condition or practice that is hazardous and, if uncommon, why it is hazardous; and (4) Be signed by at least one employee or employee representative." Chapter IX — Complaints and Referrals, A.2.d, OSHA Field Operations Manual at 201 (7-29-92). ■ [2.] Chapter IX — Complaints and Referrals, A.7., OSHA Field Operations Manual at 203 (7-29-92). ■ [3.] 29 USC § 654(a)(1). ■ [4.] "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders," EPA/600/6-92/006F (1993). ■ [5.] "Environmental Tobacco Smoke in the Workplace," Pub. 91-108. ■ [6.] "Secondhand Smoke," 402-F-004, July 1993. ■ [7.] "Environmental Tobacco Smoke in the Workplace," Pub. 91-108. ■ [8.] Consolidated Engineering Co., 12 OSAHRC 490 (1974) 2 OSCH 1253, see generally 61 Am Jur 2d Plant and Job Safety § 36.

[For Additional Citations and Information, write or call Action on Smoking and Health (ASH), 2013 H St., N.W., Wash. D.C. 20006, (202) 659-4310.]

COMPLAINANT: Add below in your own words additional details about the type, amount, and circumstances of exposure, any immediately evident health consequences, and approximate number of workers exposed (if known):

9. Hazard Location. Specify the particular building or worksite where the alleged violation exists:

10. Has this condition been brought to the attention of: (Mark "X" in all that apply):
☐ Employer: ☐ Other Government Agency (specify) _____

11. Please indicate your desire:
☐ Do not reveal my name to the Employer. ☐ My name may be revealed to the Employer.

12. The Undersigned: (Mark "X" in one box)
☐ Employee ☐ Federal Safety and Health Committee
☐ Representative of Employees ☐ Other (specify) _____
 ... believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form.

13. Complainant Name (Type or print name) _____ 14. Telephone Number _____

15. Address (Street, City, State, ZIP): _____

16. Signature: _____ 17. Date: _____

18. If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:
 Organization Name: _____ Your Title: _____

OFFICIAL USE ONLY

19. Reporting ID _____ 20. Previous Activity? ☐ Yes ☐ No
 If Yes, enter Type: _____ Number: _____ 21. Optional Complaint Number _____

Identification: 22. Establishment Name Change? ☐ 23. Site Address Change? ☐ 24. Employer ID (State's option) _____ 25. City Code _____ 26. County Code _____

Receipt Information: 27. Received by: _____ 28. Send OSHA-7? ☐ Yes ☐ No 29. Date _____ 30. Time _____ AM _____ PM 31. Supervisor(s) Assigned: a. _____ b. _____

Industry & Ownership: 32. Primary SIC _____ 33. Ownership (Mark "X" in one box):
 a. ☐ Private Sector b. ☐ Local Government c. ☐ State Government d. ☐ Federal Agency/Code _____

Complaint Evaluation: 34. Evaluated by: _____ 35. Subject and Severity:
 Discrimination ☐
 Imminent Danger _____ Serious _____ Other _____
 Safety ☐ Health ☐

36. Is This a Valid Complaint?
☐ Yes ☐ No

37. Formality
☐ Formal ☐ Nonformal

38. ☐ Migrant Farmworker Camp

Complaint Action: 39. Send Letter:
 a. ☐ No Inspection — for Invalid Complaints
☐ Too Vague or Unsubstantiated
☐ Recent Inspection or Objective Evidence (Date of Inspection: _____)
☐ Not in OSHA's Jurisdiction
 b. ☐ No Inspection — for Nonformal Complaints
☐ No Imminent Danger or No Standard
☐ No Direct Relation to S&H
☐ Not Enough Information To Evaluate
 c. ☐ OSHA-7 for Signature With Letter:
☐ Complete or ☐ Partial
 d. ☐ Nonformal Complaint Notification to Employer:
☐ Complainant Notified ☐ Explanation of 11(c)
 e. ☐ Complainant Notification With Letter d
☐ Name Not Revealed ☐ Explanation of 11(c)
 f. ☐ Acknowledgement to Complainant (Optional)
 g. ☐ Other (specify) _____

40. Date Letter Sent: _____ 41. Date Response Due (For letters c or d): _____

42. Inspection Planned? ☐ Yes ☐ No If Yes, Priority: _____ If No, Reason: _____

43. Transfer to (Name): _____ 44. Transfer Date: _____

45. Transfer to (Category):
 a. ☐ Federal OSHA/Reporting ID _____
 b. ☐ State OSH/Reporting ID _____
 c. ☐ Other Federal Agency/Code _____
 d. ☐ State/Local Government
 e. ☐ Other _____

46. Optional Information

Type	ID	Value	Type	ID	Value

47. Total Entries _____

Close Complaint: 48. ☐ Close Complaint

49. Comments: _____

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